

Message

---

**From:** Cole, Joseph E. [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5D4A7B2366AF40F498E339A7718E3441-COLE, JOSEP]  
**Sent:** 10/16/2020 6:25:29 PM  
**To:** Koch, Erin [Koch.Erin@epa.gov]  
**Subject:** RE: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Marietta's a little busy right now

---

**From:** Koch, Erin <Koch.Erin@epa.gov>  
**Sent:** Friday, October 16, 2020 2:25 PM  
**To:** Cole, Joseph E. <cole.josephe@epa.gov>  
**Subject:** RE: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

I reached out to Rachel Holloman, the branch chief who had previously been handling this. I also alerted her that Alex had sent it to someone but I don't know who. I don't want to bother Marietta with this.

---

**From:** Cole, Joseph E. <cole.josephe@epa.gov>  
**Sent:** Friday, October 16, 2020 2:22 PM  
**To:** Koch, Erin <Koch.Erin@epa.gov>  
**Subject:** RE: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Did you reach out to Ed on this earlier, or someone else in OPP? It's not clear who Alex sent this to and I've been trying to have her tell me, but she has not responded.

Joe

---

**From:** Koch, Erin <Koch.Erin@epa.gov>  
**Sent:** Friday, October 16, 2020 2:19 PM  
**To:** Lis-Coghlan, Kamila <lis-coghlan.kamila@epa.gov>; Cole, Joseph E. <cole.josephe@epa.gov>  
**Subject:** RE: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Will do.

---

**From:** Lis-Coghlan, Kamila <lis-coghlan.kamila@epa.gov>  
**Sent:** Friday, October 16, 2020 2:13 PM  
**To:** Koch, Erin <Koch.Erin@epa.gov>; Cole, Joseph E. <cole.josephe@epa.gov>  
**Subject:** RE: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Yes, let's get back to him with our answers, copying OCSPP, and noting that the other questions fall more in OCSPP's court but we're happy to assist as possible.

Thanks,  
Kamila

---

**From:** Koch, Erin <Koch.Erin@epa.gov>  
**Sent:** Friday, October 16, 2020 2:07 PM  
**To:** Cole, Joseph E. <cole.josephe@epa.gov>

**Cc:** Lis-Coghlan, Kamila <[lis-coghlan.kamila@epa.gov](mailto:lis-coghlan.kamila@epa.gov)>

**Subject:** RE: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Kamila,

Now that Alex has enlisted OPP in addition to my message to my contact, do you want me to write back to Jon with my limited answers? Or should we wait? I have not heard from my OPP contact and I'm not sure who Alex sent the questions to. And fyi, Amber and I have been separately working on a one-pager for Jon about the FIFRA review process – a request that was made yesterday through the staff attorney. I mostly pulled from our website for that and I've shared a draft with the staff attorney.

Erin

---

**From:** Cole, Joseph E. <[cole.josephe@epa.gov](mailto:cole.josephe@epa.gov)>

**Sent:** Friday, October 16, 2020 1:33 PM

**To:** Koch, Erin <[Koch.Erin@epa.gov](mailto:Koch.Erin@epa.gov)>

**Cc:** Lis-Coghlan, Kamila <[lis-coghlan.kamila@epa.gov](mailto:lis-coghlan.kamila@epa.gov)>

**Subject:** FW: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

FYI

---

**From:** Brightbill, Jonathan (ENRD) <[Jonathan.Brightbill@usdoj.gov](mailto:Jonathan.Brightbill@usdoj.gov)>

**Sent:** Friday, October 16, 2020 1:32 PM

**To:** Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Lis-Coghlan, Kamila <[lis-coghlan.kamila@epa.gov](mailto:lis-coghlan.kamila@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Cole, Joseph E. <[cole.josephe@epa.gov](mailto:cole.josephe@epa.gov)>

**Cc:** Oakes, Matthew (ENRD) <[Matthew.Oakes@usdoj.gov](mailto:Matthew.Oakes@usdoj.gov)>; Sell, Eric (ENRD) <[Eric.Sell@usdoj.gov](mailto:Eric.Sell@usdoj.gov)>

**Subject:** RE: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Thank you Alex!

# Ex. 5 Attorney Client (AC)

Jonathan D. Brightbill  
Principal Deputy Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W., Room 2603  
Washington, D.C. 20530  
Office: (202) 514-2766  
Mobile: (202) 598-3370  
[Jonathan.Brightbill@usdoj.gov](mailto:Jonathan.Brightbill@usdoj.gov)

---

**From:** Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>

**Sent:** Friday, October 16, 2020 12:59 PM

**To:** Brightbill, Jonathan (ENRD) <[JBrightbil@ENRD.USDOJ.GOV](mailto:JBrightbil@ENRD.USDOJ.GOV)>; Lis-Coghlan, Kamila <[lis-coghlan.kamila@epa.gov](mailto:lis-coghlan.kamila@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Cole, Joseph E. <[cole.josephe@epa.gov](mailto:cole.josephe@epa.gov)>

**Cc:** Oakes, Matthew (ENRD) <[MOakes@ENRD.USDOJ.GOV](mailto:MOakes@ENRD.USDOJ.GOV)>; Sell, Eric (ENRD) <[ESell@ENRD.USDOJ.GOV](mailto:ESell@ENRD.USDOJ.GOV)>

**Subject:** RE: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Kamila, I'll get these to the program ASAP.

Alexandra Dapolito Dunn, Esq.  
Assistant Administrator  
Office of Chemical Safety and Pollution Prevention  
US Environmental Protection Agency  
Washington, DC

---

**From:** Brightbill, Jonathan (ENRD) <[Jonathan.Brightbill@usdoj.gov](mailto:Jonathan.Brightbill@usdoj.gov)>

**Sent:** Friday, October 16, 2020 10:40 AM

**To:** Lis-Coghlan, Kamila <[lis-coghlan.kamila@epa.gov](mailto:lis-coghlan.kamila@epa.gov)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Cole, Joseph E. <[cole.josephe@epa.gov](mailto:cole.josephe@epa.gov)>

**Cc:** Oakes, Matthew (ENRD) <[Matthew.Oakes@usdoj.gov](mailto:Matthew.Oakes@usdoj.gov)>; Sell, Eric (ENRD) <[Eric.Sell@usdoj.gov](mailto:Eric.Sell@usdoj.gov)>

**Subject:** RE: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Very good. Thank you Kamila and Joe.

Jonathan D. Brightbill  
Principal Deputy Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W., Room 2603  
Washington, D.C. 20530  
Office: (202) 514-2766  
Mobile: (202) 598-3370  
[Jonathan.Brightbill@usdoj.gov](mailto:Jonathan.Brightbill@usdoj.gov)

---

**From:** Lis-Coghlan, Kamila <[lis-coghlan.kamila@epa.gov](mailto:lis-coghlan.kamila@epa.gov)>

**Sent:** Friday, October 16, 2020 10:38 AM

**To:** Brightbill, Jonathan (ENRD) <[JBrightbil@ENRD.USDOJ.GOV](mailto:JBrightbil@ENRD.USDOJ.GOV)>; Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>; Cole, Joseph E. <[cole.josephe@epa.gov](mailto:cole.josephe@epa.gov)>

**Cc:** Oakes, Matthew (ENRD) <[MOakes@ENRD.USDOJ.GOV](mailto:MOakes@ENRD.USDOJ.GOV)>; Sell, Eric (ENRD) <[ESell@ENRD.USDOJ.GOV](mailto:ESell@ENRD.USDOJ.GOV)>

**Subject:** RE: Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Jon,

Bob Perlis and Mark Dyner are no longer with EPA, but I'm adding Joe Cole for PTSLO. We'll work with OCSPP to set up something to address your questions.

Thanks,  
Kamila

---

**From:** Brightbill, Jonathan (ENRD) <[Jonathan.Brightbill@usdoj.gov](mailto:Jonathan.Brightbill@usdoj.gov)>

**Sent:** Friday, October 16, 2020 10:33 AM

**To:** Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Lis-Coghlan, Kamila <[lis-coghlan.kamila@epa.gov](mailto:lis-coghlan.kamila@epa.gov)>; Perlis, Robert <[Perlis.Robert@epa.gov](mailto:Perlis.Robert@epa.gov)>; Dyner, Mark <[dyner.mark@epa.gov](mailto:dyner.mark@epa.gov)>; Dunn, Alexandra <[dunn.alexandra@epa.gov](mailto:dunn.alexandra@epa.gov)>

**Cc:** Oakes, Matthew (ENRD) <[Matthew.Oakes@usdoj.gov](mailto:Matthew.Oakes@usdoj.gov)>; Sell, Eric (ENRD) <[Eric.Sell@usdoj.gov](mailto:Eric.Sell@usdoj.gov)>

**Subject:** Hardeman - Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Attorney Client Privilege, Attorney Work Product, FOIA-Exempt Deliberative

Good morning EPA colleagues,

I hope this email finds all of you well. Matt O. may already be coordinating with you, but reminder the I will be arguing on behalf of the U.S. next week in the Hardeman v. Monsanto case in the Ninth Circuit. Recall that the U.S. submitted an amicus brief in support of Petitioner stating that FIFRA expressly preempts the plaintiff's state law failure to warn claim that Roundup should have borne a cancer warning, contrary to the EPA approved label. A copy of that brief is attached.

# Ex. 5 Attorney Client (AC)

Thank you,  
Jon

Jonathan D. Brightbill  
Principal Deputy Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W., Room 2603  
Washington, D.C. 20530  
Office: (202) 514-2766  
Mobile: (202) 598-3370  
[Jonathan.Brightbill@usdoj.gov](mailto:Jonathan.Brightbill@usdoj.gov)